IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 22115 of 2007(G)

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PETITIONER:

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JAMES ANTONY, S/O. JOSEPH ANTONY,
AGED 40 YEARS, RESIDING AT KIZHAKEDATHU HOUSE,
NEELIVAYAL, THANKAMANI P.O., UDUMBANCHOLA TALUK,
IDUKKI DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENTS:

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1. THE MANAGER,
KERALA STATE FINANCIAL ENTERPRISES LTD.,
KATTAPPANA BRANCH, KATTAPPANA P.O.,
IDUKKI DISTRICT.

2. THE SPECIAL DEPUTY TAHSILDAR,
REVENUE RECOVERY, KSFE LTD., M.D.COMMERCIAL
CENTER, KOTTAYAM.

3. THE VILLAGE OFFICER,
THANKAMANI VILLAGE OFFICE, THANKAMANI P.O.,
UDUMBANCHOLA TALUK, IDUKKI DISTRICT.

R1&2 BY ADV. SRI.M.SASINDRAN/SRI.M.L.SAJEEVAN, SC, K.S.F.E., LTD.
R3 BY G.P. SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.22115 of 2007

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Dated this the 19th day of July, 2007.

JUDGMENT

Even though petitioner stated in court that petitioner is only a guarantor for the loan, Standing Counsel for KSFE after taking instruction submitted that petitioner is the principal debtor. The guarantor who stood as surety filed another W.P. and inspite of conditional order passed by this court, the guarantor has not made any payment. Standing Counsel for KSFE submitted that guarantor has only 5 cents of land the said property is mortgaged for five loans. In the circumstances, recovery has to be necessarily taken against the petitioner. If petitioner undertakes to settle liability by arranging sale of property by himself, I feel respondents should grant some time provided petitioner gives an undertaking that within two months from today he will settle liability and if he does not settle liability by sale of some portion of the mortgaged property or otherwise, he will hand over the property including the building free of possession to the second respondent for sale in auction. The petitioner is free to negotiate for sale of any portion of the property after furnishing an undertaking before the first respondent that he will clear the liability within two months from

today. The petitioner can enter into agreement for sale of part or full of the mortgaged property. However, sale deed will be executed only after arrears are cleared. If petitioner makes payment within two months from today, i.e. on or before 20.9.2007, there will be direction to the respondents to waive penal and default interest and not to recover any collection charges from the petitioner. However, if after furnishing undertaking petitioner fails to discharge liability and refuses to deliver the property free of possession, the first respondent can request for Police assistance and in that case there will be direction to the Station House Officer of the area to evict the petitioner and hand over the property free of possession to the second respondent for sale in auction.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms